

SAFEGUARDING VULNERABLE GROUPS ACT 2006

EXPLANATORY NOTES

RESTRICTIONS ON PARTICIPATING IN REGULATED ACTIVITY

Section 10: Use of person not subject to monitoring for regulated activity

67. This section makes it an offence for a regulated activity provider to permit an individual whom he knows or has reason to believe is not subject to monitoring in relation to regulated activity to engage in that activity. A similar offence is created in relation to a personnel supplier who supplies an individual in these circumstances, though the regulated activity provider will commit the offence only if the individual actually engages in the activity.
68. Subsection (3) redefines regulated activity, for the purposes of subsection (2), so that it is an offence for a personnel supplier to supply an individual to engage in regulated activity without them being subject to monitoring, even where this activity takes place only briefly or for a short period of time. Again the modifications mirror those made by section 7(5), which are explained more extensively above.
69. Subsection (5) ensures that this offence does not apply if the individual who engages in the activity is under 16 years old. This will ensure that a person will be able to use, for example, young people who are not subject to monitoring for work experience in a nursery.
70. Subsections (6), (8), (11) and (12) have a similar purpose to section 8(7), (9), (11) and (12) (see above).
71. Again, similarly to section 8 for employees and volunteers, subsections (7) and (9) exempt certain providers of regulated activity mentioned in sections 16 and 17 (where certain conditions are met), from the offence of employing someone whom he knows or has reason to believe is not subject to monitoring.
72. Subsection (10) will require courts to consider the extent to which guidance issued by the Secretary of State on the definition of “frequently” has been followed when setting the penalty for the commission of the offence in the section. This is intended to protect employers who have followed the Secretary of State’s guidance in the event that a court takes a different view to the Secretary of State on the interpretation of “frequently”.